

§ 153A-349.8. Periodic review to assess compliance with agreement; material breach by developer; notice of breach; cure of breach or modification or termination of agreement.

(a) Procedures established pursuant to G.S. 153A-349.3 must include a provision for requiring periodic review by the zoning administrator or other appropriate officer of the local government at least every 12 months, at which time the developer must be required to demonstrate good faith compliance with the terms of the development agreement.

(b) If, as a result of a periodic review, the local government finds and determines that the developer has committed a material breach of the terms or conditions of the agreement, the local government shall serve notice in writing, within a reasonable time after the periodic review, upon the developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the developer a reasonable time in which to cure the material breach.

(c) If the developer fails to cure the material breach within the time given, then the local government unilaterally may terminate or modify the development agreement; provided, the notice of termination or modification may be appealed to the board of adjustment in the manner provided by G.S. 160A-388(b1). (2005-426, s. 9(b); 2013-126, s. 10.)